

Message Text

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PAGE 01 STATE 074548
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FM SECSTATE WASHDC
TO AMEMBASSY BONN
USMISSION USBERLIN
INFO AMEMBASSY BRUSSELS
AMEMBASSY PARIS

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USEEC, OECD

E.O. 11652:N/A

TAGS: ETRD, US, GW

SUBJECT: ANTITRUST: FMC PATENT LICENSE ARRANGEMENT WITH
BAYER AG

1. THE DEPARTMENT OF JUSTICE HAS INFORMED THE DEPARTMENT
THAT QUOTE THE ANTITRUST DIVISION IS CURRENTLY INVESTIGAT-
ING POSSIBLE ANTICOMPETITIVE ASPECTS OF PATENT LICENSING
ARRANGEMENTS BETWEEN FMC CORPORATION AND BAYER AG, A
WEST GERMAN CORPORATION. THE ARRANGEMENTS IN QUESTION
INVOLVE FMC'S PATENT ON AN AGRICULTURAL CHEMICAL, PESTI-
CIDE CARBOLFURAN (TRADEMARK FURADAN), WHICH FMC, PURSUANT
TO AGREEMENTS WITH BAYER, HAS LICENSED TO CHEMAGRO CORPO-
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RATION, A DIVISION OF MOBAY CORPORATION, A WHOLLY-OWNED
AMERICAN SUBSIDIARY OF BAYER. THE DIVISION IS CONCERNED
THAT THE PURPOSE OR EFFECT OF THE AGREEMENTS HAS BEEN TO
PREVENT BAYER FROM ENTERING U.S. MARKETS.

2. QUOTE PURSUANT TO THIS INVESTIGATION, THE DIVISION
PROPOSED TO SEND A VOLUNTARY LETTER OF INQUIRY TO BAYER

REQUESTING INFORMATION REGARDING BAYER'S AGREEMENTS WITH FMC, ESPECIALLY AS REGARDS CHEMAGRO. UNQUOTE IT IS THE INTENTION OF THE DEPARTMENT OF JUSTICE TO SEND OUT THE VOLUNTARY LETTER OF INQUIRY ON APRIL 15.

3. ADDRESSEES ARE REQUESTED TO NOTIFY THE APPROPRIATE AUTHORITIES OF THE FRG OF THIS IMPENDING ACTION IN ACCORDANCE WITH THE 1976 AGREEMENT CONCERNING RESTRICTIVE BUSINESS PRACTICES BETWEEN THE US AND THE FRG AND PURSUANT TO THE 1967 OECD RECOMMENDATION ON RBP ACTIONS. PLEASE REPORT ANY COMMENTS. VANCE

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Disposition History: n/a
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Drafter: T A SCHLENKER:BT
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